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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,821	03/06/2006	Klaus Becker-Weimann	42660119PUS1	7091
2292 7590 12/05/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER HAGEDORN, MICHAEL E				
ART UNIT 4159		PAPER NUMBER		
NOTIFICATION DATE 12/05/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/570,821

Applicant(s)

BECKER-WEIMANN, KLAUS

Examiner

MICHAEL HAGEDORN

Art Unit

4159

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October, 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 14 objected to because of the following informalities: applicant has "the" appear in consecutive order. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10 - 21 is rejected under 35 U.S.C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim language of the "heat cartridge" as well as sentence "The adhesive fluid dispensing device, wherein the adhesive fluid cartridge is composed of metal and onto a metal thread on the dispensing device" makes the claims indefinite because it is unclear what is being claimed.

3. In Re claim 10, 18, 19, 20 the word "cartridge" is defined as follows: "Any small container for powder, liquid, or gas, made for ready insertion into some device or mechanism." <http://dictionary.reference.com/browse/cartridge> (accessed July 1st, 2008). The applicant uses the phrase "heat cartridge" which by definition would not be satisfied because the "heating cartridge" contains no powder, liquid, or gas made ready for insertion.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 10, 11, 15 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Belanger et al. (US Patent 5,026,187)
6. In Re claim 10, with reference to figure 1, and the specification, Belanger et al (US Patent 5,026,187) discloses
- a. An adhesive fluid dispensing device (2) with an adhesive fluid dispensing tip (18) to which a flow from an adhesive fluid cartridge passes (6), and a manually actuatable adhesive fluid cartridge actuating ram (28), the adhesive fluid cartridge being assigned a heating cartridge (10) for heating the adhesive fluid (8) to a temperature sufficient for flow to pass through an adhesive fluid dispensing tip (18) upon actuation of a ram, wherein the dispensing tip is composed of readily heat-conductive material (column 4, lines 32 - 40).
7. In Re claim 11, with reference to figure 1 below, Belanger et al. (US Patent 5,026,187) discloses
- a. An adhesive fluid dispensing device (2), wherein the dispensing tip (18) is heated substantially just by the adhesive fluid flowing out.

12. In Re claim 15, with reference to figure 1, and the specification, Belanger et al (US Patent 5,026,187) discloses

a. The adhesive fluid dispensing device (2), wherein the ram (28) acts on the plunger (24).

13. In Re claim 21, with reference to figure 1, Belanger et al (US Patent 5,026,187) discloses

a. An adhesive fluid dispensing device (2), wherein power is supplied by electric current (14).

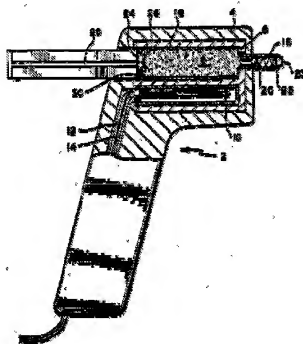


Figure 1 - Belanger (US Patent 5,026,187)

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belanger et al. (US Patent 5,026,187) as applied to claim 10 above, and further in view of Miyata et al. (US Patent Application Publication 2005/0006413).

16. In re claims 12, Belanger discloses the claimed invention except for the dispensing tip screwed onto a metal thread on the adhesive fluid cartridge. However, Miyata et al. discloses a dispensing tip (22) screwed on a metal thread on the adhesive fluid cartridge (11). Therefore, it would have been obvious to one of ordinary skill in the art to implement Miyata's teaching into Belanger's because this would allow to user to reuse the dispensing tip, saving money.

17. In re claim 13, Belanger discloses the adhesive fluid cartridge is composed of metal (Column 4, lines 32 - 40).

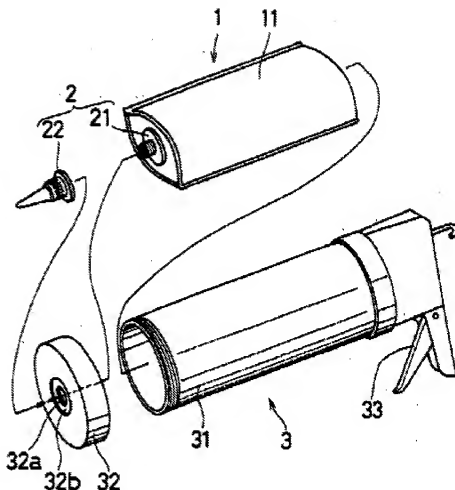


Figure 2 – Miyata (US Patent Application Publication 2005/0006413)

18. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belanger et al. (US Patent 5,026,187) as applied to claim 10 above, and further in view of Ichikawa et al. (US Patent 6,736,290)

19. In re claim 14, Belanger discloses the claimed invention except for wherein the dispensing tip is screwed on the dispensing device. However, Ichikawa et al. discloses the dispensing tip (114') is screwed on the dispensing

device (144a) (Column 19, lines 34 – 40). Therefore, it would have been obvious to one of ordinary skill in the art to implement Ichikawa's teaching into Belanger's because this would allow the user to switch nozzles if they need to be cleaned or be changed if damaged.

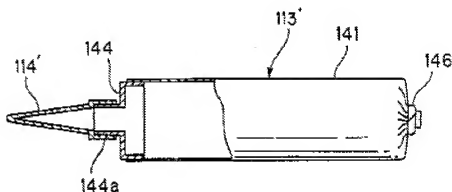


Figure 3 - Ichikawa et al. (US Patent 6,736,290)

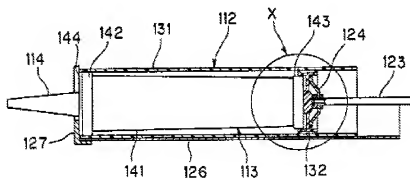


Figure 4 - Ichikawa et al. (US Patent 6,736,290)

20. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belanger et al. (US Patent 5,026,187) as applied to claim 10 above, and further in view of Osborn et al. (US Patent 6,892,904).

21. In Re claim 16 and 17 Belanger et al. has been discussed above, but doesn't disclose an adhesive fluid dispensing device, wherein the ram is

assigned a pistol-type and pliers-type handle. With reference to figure 3 below, Osborn et al. discloses a pistol-type and pliers-type handle (220). It would have been obvious to one of ordinary skill in the art to implement a pistol-type or pliers-type handle because this will provide the user better control when dispensing the contained fluid as well as comfort and less force needed to drive the ram.

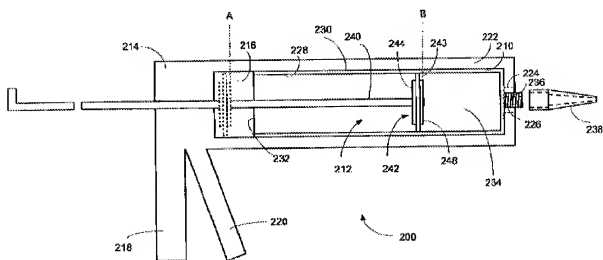


Figure 5 – Osborn (US Patent 6,892,904)

22. Claims 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belanger et al. (US Patent 5,026,187) as applied to claim 10 above, and further in view of Feldman (US Patent 4,067,481).

23. In Re claim 18 Belanger et al has been discussed above, but doesn't disclose an adhesive fluid dispensing device, wherein the heating cartridge is arranged around the cartridge. With reference to figure 4 below, Feldman does disclose a heating cartridge (10) that is arranged around the adhesive fluid cartridge. It would have been obvious to one of ordinary skill in the art to

implement a heating cartridge that is arranged around the cartridge because this would insulate the fluid prevent initial clogging of the adhesive through the extrusion nozzle. Furthermore, by arranging the heating cartridge around the adhesive cartridge less time would be needed to melt the adhesive reducing waiting time

24. In Re claim 19, Feldman teaches an adhesive fluid dispensing device, wherein the heating of the cartridge content takes place from diametrically opposite sides as shown in figure 4 (shown below).

25. In Re claim 20, Feldman discloses the heating cartridge insulate the adhesive fluid cartridge against heat losses, along with being capable for disconnection from a power supply during dispensing.

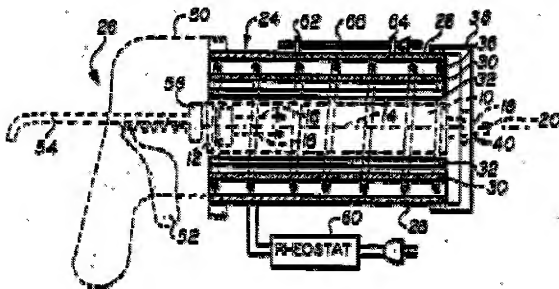


Figure 6 – Feldman (US Patent 6,982,904)

Response to Arguments

14. Applicant argues that Belanger fails to disclose the dispensing tip is screwed onto a metal thread on the adhesive fluid cartridge. Applicant is in fact correct, but it was the examiner's mistake to reject claim 12 under 35 USC 102(b) and intended this to fall under 35 USC 103(a) therefore, action will be made non-final based on this argument.

15. Applicants amendments to claims 13 and 14 regarding the 35 USC 112 rejection have been accepted, however applicants argument regarding the 35 USC 112 rejection regarding the phrase "heating cartridge" is not persuasive.

a. It appears that the applicant is attempting to be their own lexicographer, but the claim language uses the phrase "heating cartridge" making the "cartridge" the noun and "heating" the verb. Applicant has submitted a definition for "cartridge heater" where heater is the noun and cartridge is the verb. Therefore, the 35 USC 112 rejection is maintained because applicant needs to provide clarification on the phrase in the claims.

16. Applicant has traverses the rejection made on claims 10, 11, 15 and 21 made under 35 USC 102(b) by US 5026187.

17. Examiner maintains this rejection because applicant's arguments are not persuasive for the following reasons. First, applicant argues that the heating element 10 used in Belanger et al. cannot be properly equated with applicant's claimed "heating cartridge". Given applicants response regarding the 35 USC 112 rejection on the phrase "heating cartridge" to mean "cartridge heater" then heating element 10 could still used because there is a heater in the form of a cartridge. Furthermore, if applicant wishes to

use the phrase "heating cartridge" then based on the broadest reasonable interpretation then cartridge (6) can be heated up anticipating a "heating cartridge". Thus, any phase used by applicant is anticipated by Belanger. Second, applicant argues no clear disclosure of a dispensing tip formed of readily heat-conductive material. However, column 2, lines 30 – 61, discloses a cartridge made of a metal or other heat-conducting material with a nozzle assembly an integral part of the cartridge, therefore, showing a clear disclosure.

18. In rest of the arguments are moot in light of the new rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL HAGEDORN whose telephone number is (571)270-5705. The examiner can normally be reached on Monday thru Friday 7:30am to 5:00pm EST / alt Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on (571)272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4159

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael Hagedorn
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/George Nguyen/
Supervisory Patent Examiner, Art Unit 4159